



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

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*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

March 15, 2016

**BY ECF**

The Honorable Thomas P. Griesa  
United States District Judge  
United States District Court for the  
Southern District of New York  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re: United States v. Constantine Giannakos  
S2 09 Cr. 940 (TPG)

Dear Judge Griesa:

The Government writes to express its view that the loss amount calculated in the Presentence Report ("PSR") of the defendant Constantine Giannakos is incorrect. In the defendant's PSR, Giannakos is found responsible for a loss of approximately \$1,388,500. It is unclear how the United States Probation Office reached this number. It is the Government's view that the loss amount should be approximately \$671,040.

The Government calculates the defendant's loss amount as follows: According to Information S2 09 Cr. 940 (the "Information"), the defendant participated in fraudulent mortgage transactions involving at least nine different properties. Those properties are listed in the Information as well as in the PSR. (PSR ¶¶ 27-35). Of those nine properties, three of them have been sold in a short sell. The property "361 Underhill Avenue, Bronx, New York," was sold for a loss of approximately \$343,945, the property "164 Urban Avenue, Westbury, New York," was sold for a loss of approximately \$119,279, and the property "16 Benedict Drive, Warwick, New York," was sold for a loss of approximately \$207,816.<sup>1</sup> The remaining six properties have a loss amount of zero, as the fraudulently obtained loans relating to those properties were either paid in full or their status is unclear. Thus, the defendant's total loss amount is approximately \$671,040.

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<sup>1</sup> These loss amounts were determined by subtracting the amount the properties ultimately sold for from the amount of the fraudulently obtained loans.

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Given that the defendant's loss amount is approximately \$671,040, and not \$1,388,500 million, the Sentencing Guidelines range calculated in the PSR is also incorrect. Based on an Offense level of 20 and a Criminal History Category of I, the PSR calculates the defendant's Guidelines range to be between 33 and 41 months' imprisonment. (PSR ¶ 102). The Offense level is based in part on a 16-level increase pursuant to the 2014 United States Sentencing Guidelines ("U.S.S.G") § 2B1.1(b)(1)(I). (PSR ¶ 51). Section 2B1.1(b)(1)(I) of the 2014 Guidelines called for such an increase when the loss associated with the offense was more than \$1,000,000, but less than \$2,500,000. Here, given that the loss is approximately \$671,040, and that the 2015 Guidelines, not the 2014 Guidelines, are now applicable, only a 14-level increase is warranted pursuant to Section 2B1.1(b)(1)(H). Accordingly, the defendant's total Offense level should be 18, which, with a Criminal History Category of I, results in a Guidelines range of 27 to 33 months' imprisonment.

The Government respectfully asks that the Court take this information into consideration when sentencing the defendant.

Respectfully submitted,

PREET BHARARA  
United States Attorney

By: \_\_\_\_\_/s/\_\_\_\_\_  
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